

TENTH AMENDED ADMINISTRATIVE ORDER
NINTH JUDICIAL DISTRICT

Pursuant to the authority vested in me, in accordance with the recent operational protocols issued by the Chief Administrative Judge for the trial courts of the Unified Court System and after consultation with the Chief Administrative Judge and the Deputy Chief Administrative Judge and

WHEREAS, New York State and the nation are now in the midst of an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS, COVID-19 is known to be a highly infectious disease, and there is much community concern that large gatherings of people can result in greater public exposure to possible contagion or “community spread”; and

WHEREAS, on a daily basis, in courts across the State, hundreds if not thousands of people representing a broad cross-section of the community gather to conduct business in large groups in close proximity to one another; and

WHEREAS the Courts of the Ninth Judicial District commenced Phase I of the Return to In-Person Operations Plan (“RIOP”) on May 27, 2020, Phase II of the RIOP on June 11, 2020, Phase III of the RIOP on June 25, 2020, Phase IV of the RIOP on July 9, 2020, Phase 4.1 of the RIOP on August 14, 2020, Phase 4.1 Expansion of the RIOP on October 19, 2020, the Updated RIOP on November 19, 2020 (**with the Updated Operating Protocols to be effective November 23, 2020**); it is hereby

ORDERED that effective immediately the following rules be put into effect in the Ninth Judicial District until rescinded.

As hereinafter used, “Assigned Judge” shall refer to the judge assigned to hear the case on and before March 16, 2020.

A. General matters and matters applicable to more than one case type

1. Until further Administrative Order or Executive Order, residential eviction matters may proceed pursuant to the protocol established in the memoranda from Chief Administrative Judge Lawrence Marks dated October 9, 2020 and November 17, 2020 and pursuant to **Administrative Orders AO/231/20 and AO/268/20. Further reference is made to Executive Order 202.72 signed by the Governor on November 3, 2020, the Tenant Safe Harbor Act (Ch. 127, L. 2020)** and the CDC Agency Order filed on September 1, 2020.
2. Until further Administrative order or Executive Order, Default judgments shall not be granted where, pursuant to CPLR 3215, the default occurred after March 16, 2020. Notwithstanding the foregoing, a judge presiding over a matter wherein a party has defaulted may grant a default judgment where, after inquiry, the judge determines that (a) the defaulting party has received actual notice of the action or proceeding; (b) the failure of the defaulting party to respond to the action or proceeding is not due to the COVID-19

pandemic; and (c) the granting of the default judgment is not contrary to any statute, Executive Order or Administrative Order.

3. All Family Court and all County Court Judges are cross-assigned to the County and Family Courts in all counties of the District. All City Court Judges are cross assigned to all County, City, Town and Village Courts in the County of their residence an any adjoining County.
4. The Return to In-Person Operations Plan (“RIOP”) (Phase I) implemented on May 27, 2020, the RIOP (Phase II) implemented on June 11, 2020, the RIOP (Phase III) implemented on June 25, 2020, the RIOP (Phase IV) implemented on July 9, 2020, the RIOP (Phase 4.1) implemented on August 14, 2020, RIOP 4.1 expansion implemented October 19, 2020, the Updated RIOP (with the Updated Operating Protocols to be implemented on November 23, 2020), **and any further updated operating protocols are incorporated herein and all provisions of this Administrative Order shall be read in conjunction with the protocols.**
5. The Virtual Courtroom Protocol enacted by Ninth Judicial District Administrative Order effective April 6, 2020, to the extent not inconsistent with the Updated Operating Protocols, remains in full force and effect and all provisions of this Administrative Order shall be read in conjunction with the Virtual Courtroom Protocol and any subsequent amendments thereto. A phased migration to Microsoft Teams from Skype for Business will commence in the state paid courts October 5, 2020 (term 11) and on November 2, 2020 (term 12) in the Town and Village Courts.
6. Occupancy of all courtrooms shall be limited to the lesser of 10 people or ½ the posted room occupancy per code. An exception shall be granted for ongoing grand juries currently in progress (in those instances, occupancy shall be limited to the lesser of 25 people or ½ the posted room occupancy per code). Any exceptions that were previously granted to the occupancy limits are rescinded until further notice.
7. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
8. Staff shall report to the courthouse as determined by his/her supervisor. All Judges and Chambers’ staff should report to the courthouse. Any requests for exemptions must be discussed with the Administrative Judge.
9. All Temporary Orders of Protection issued in any criminal or civil matter that has expired or is due to expire on or after March 19, 2020 “shall be extended under the same terms and conditions until the date the matter is re-calendared, unless the order is sooner terminated or modified by a judge or justice of the court that issued the order” pursuant to Administrative Order AO/73/20 signed by the Chief Administrative Judge of the Courts on March 19, 2020.
10. All filings shall be pursuant to the Administrative Order signed by the Chief Administrative Judge of the Courts (AO/267/20 and any amendments thereto).
11. The Judges should encourage or require, to the greatest extent possible, the use of virtual technology in matters that occur off court premises (depositions, discovery, etc.). Such language should be included in any scheduling orders.

B. Supreme Civil

1. All Mental Hygiene Law proceedings in which a party is confined to a hospital or other facility shall be conducted with appearances by means of remote audiovisual technology or telephone pursuant to Administrative Order AO/72/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020.
2. Until further Administrative Order or Executive Order, foreclosure matters may proceed pursuant to the protocol established in the memoranda from Chief Administrative Judge

Lawrence Marks dated July 24, 2020 and **October 22, 2020** and pursuant to Administrative Orders AO/157/20 dated July 23, 2020 and **AO/232/20 dated October 22, 2020**. Further reference is made to Executive Order 202.28 signed by the Governor on May 7, 2020, Executive Order 202.64 signed by the Governor on September 18, 2020, Executive Order 202.67 signed by the Governor on October 4, 2020, and the Laws of New York 2020, Chapters 112 and 126. **All Foreclosure Auctions must adhere to the Ninth Judicial District Foreclosure Auction Plan.**

C. Superior Court Criminal Cases

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders. The issuance of the new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order, whichever is later. For Defendants not in custody, there shall be no adjournment of a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that greater than 30 days.
2. **No new prospective grand jurors will be summoned for grand jury service for terms twelve and thirteen until further notice (reference is made to AO 276/2020 signed by Deputy Chief Administrative Judge Caruso dated November 23, 2020). Existing grand juries shall continue pursuant to Order of the Administrative Judge. Any application to empanel a new grand jury during terms twelve or thirteen upon the failure to obtain a quorum should be made by the District Attorney to the Administrative Judge.**
3. The Youth Part arraignment procedure established in the Virtual Courtroom Protocol is modified only as follows: The Youth Part Judge, or designed back-up Youth Part Judge, shall preside over Youth Part proceedings
4. Each County, in consultation with the Sheriff, shall develop a plan for the imposition of intermittent sentences.
5. The Centralized Parts in Rockland and Putnam Counties shall be available for Essential Matters where a Town or Village Court is unavailable due to Covid-19.

D. Treatment Courts/OSP

1. Treatment courts and Opioid Stabilization Parts will be handled by the Assigned Judge and **reference is made to Paragraph (II)(E)(1) of the Updated Operating Protocols Effective November 23, 2020.**
2. Virtual conferences are encouraged (reference is made to Administrative Order AO/87/20 of Chief Administrative Judge Lawrence Marks dated May 1, 2020, "Problem-solving courts may conduct virtual court conferences with counsel, court staff, service providers, and, where practicable, clients").-

E. Family Court

1. All matters shall be addressed by the Assigned Judge and appropriately scheduled. Virtual calendars are encouraged.
2. Judges should ensure that all Permanency Planning Hearings are timely scheduled and heard pursuant to existing Federal or State Law. Difficulties in scheduling the hearings should immediately be brought to the attention of the supervising judge.
3. All cases involving a youth that is currently in detention shall be reviewed by the Assigned Judge, at a minimum, at least once every fourteen days.
4. No new S (PINS), F (Support), P (Paternity), or U (UIFSA) warrants may be issued unless approved by the Supervising Judge. Only D (Juvenile Delinquent) warrants may be issued in the discretion of the Assigned Judge.

F. Surrogate's Court

All matters shall be calendared consistent with all Administrative Orders and Executive Orders at the discretion of the Presiding Surrogate.

G. City Court

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders, Administrative Orders and the Updated Operating Protocols Effective November 23, 2020. The issuance of the new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order, whichever is later. For Defendants not in custody, there shall be no adjournment of a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that greater than 30 days.
2. The Centralized Part shall be available for essential matters, only if the Town and Village Court is unavailable due to Covid-19.

H. Town and Village Courts

1. No new prospective trial jurors (criminal or civil) will be summoned for jury service until further notice. Commenced criminal and civil jury trials will continue to conclusion.
2. No new bench trials and hearings in civil and criminal cases will be conducted. In-person Bench trials and hearings may only be conducted after a request is made to the Administrative Judge. The Administrative Judge shall seek permission from the Deputy Chief Administrative Judge. Exception: in-person Preliminary Hearings may be heard in-person pursuant to the Updated Return to In-Person Operations Plan effective October 19, 2020, without further approval.
3. Judges may conduct in-person off-hour arraignments. In counties with a CAP, the arraignments shall occur with the Judge presiding at the CAP; where there is a VAP, virtual arraignments shall continue. In all other counties, necessary arraignments shall occur at the Town or Village Court.
4. Judges are encouraged to more robustly conference criminal matters virtually/telephonically and if acceptable disposition is reached, plea affidavits are permissible. In-person pleas and sentences shall only occur if virtual pleas and sentences are unlawful or impractical.
5. Judges may hold appearances regarding appeals.

6. Judges may hold arraignments on Appearance Ticket returns and appearances on VTL matters.
7. Occupancy of all courtrooms shall be limited to the lesser of 10 people or 25% of the posted room occupancy per code. This includes lawyers/litigants/spectators, but does not include any court personnel or security.
8. All current safety measures and protocols will continue.

Dated: November 24, 2020
White Plains, New York



Hon. Kathie E. Davidson
Administrative Judge
Ninth Judicial District

Distribution:
HON. VITO CARUSO